

## **REMARKS**

Currently Claims 1-33 are pending. Claims 34 and 35 have been cancelled. Claim 11 has been amended to correct a typographical error. Applicants address each of the rejections in the Action in the order in which they appear in the Action.

### **I. Claims 1-21 and 23-32 Are Patentable Over Rand**

Claims 1-21 and 23-32 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Rand et al. WO98/56444 (hereinafter Rand). Applicants respectfully traverse this rejection.

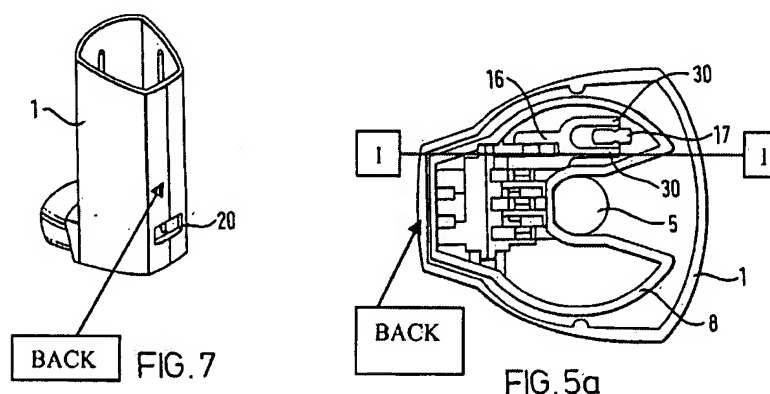
Claim 1 recites:

A holder for holding a dispensing container system which is adapted to dispense a quantity of a fluid contained therein on movement thereof relative to the holder and further includes a dispensing counter means for counting the number of quantities of the fluid dispensed, the holder having a moulded plastics body with inner and outer surfaces, the inner surface bounding a cavity adapted to receive the dispensing container system in movable relation thereto, the cavity having moulded counter advance means adapted in use to co-operate with the dispensing counter means on relative movement between the dispensing container system and the body to advance the dispensing counter means to indicate the dispensing of a quantity of the fluid, wherein the body is formed with an outlet port in communication with the cavity such that the fluid dispensed from the dispensing container system is dischargeable therethrough, and wherein an aperture extends through the body from the outer surface to the inner surface in alignment with the counter advance means.

(emphasis added). Applicants holder comprises an aperture which extends through the body from the outer surface to the inner surface in alignment with the counter advance means. In contrast to the recitations of claim 1, Rand does not disclose a holder with an aperture in alignment with the counter advance means.

Rand proposes a dispenser comprising a housing with an actuation indicator locatable within said housing. Specifically, Rand proposes a dose indicating device (8) which forms a unit with an aerosol container (2), which unit is inserted into the housing (1) of the inhalation device. (page 8 line 4 through page 9 line 5). A window (20) is located at the back of the housing (1) so as to be aligned with the display of digit wheels (page 11 lines 17-23) or a LCD display (page 14 lines 5-9). The dose

indicating device (8) is operated by a post (17) or pin (45) upstanding from the base of the housing (7) (page 10 line 20 through page 11 line 23; page 13 line 9 through page 14 line 33). The Examiner has characterized the post (17) of Rand as the “counter advance means” of Applicants’ claim 1. However, unlike Applicants’ claimed invention, the post (17) of Rand is not in alignment with an aperture, the window (20) of Rand, as characterized by the Examiner. There is no disclosure in Rand, textual or visual, of a window (20) in alignment with the post (17). This is because the post (17) is offset (i.e. not aligned) to the window (20) as seen in Figures 5a and 7, annotated versions of which are reproduced below.



In more detail, Figure 7 shows the window (20) at the back of the housing (1), and that the window (20) only extends across part of the width of the back. Figure 5a shows that even if the window (20) extended across the full width of the back of the housing (1) – which Figure 7 shows is not the case – the post (17) would still be offset to the window (i.e. not aligned therewith), as clearly shown from the position of the post (17) to line I-I drawn through the side edge of the back.

Rand does not disclose or suggest a holder as recited in claim 1 “wherein an aperture extends through the body from the outer surface to the inner surface in alignment with the counter advance means.”

For at least the foregoing reason, Applicants respectfully submit that claim 1 is patentable over Rand and request that this rejection be withdrawn.

Claims 2-21 and 23-32 depend either directly or indirectly from patentable independent claim 1. For at least this reason and without acquiescing in the rejection of these claims, Applicants respectfully submit that these dependent claims are patentable over Rand and request that these rejections be withdrawn. Applicants expressly reserve the right to argue the separate patentability of one or more of these dependent claims at a later date.

**II. Claims 22 and 33 Are Patentable Over Rand**

Claims 22 and 33 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rand. Applicants respectfully traverse this rejection.

Claims 22 and 33 each depend from patentable independent claim 1. For at least this reason and without acquiescing in the rejection of this claim, Applicants respectfully submit that these dependent claims are patentable over Rand and request that this rejection be withdrawn. Applicants expressly reserve the right to argue the separate patentability of these dependent claims at a later date.

**III. Claims 34 and 35**

Claims 34 and 35 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rand in view of Keane et al. WO 02/00281. Claims 34 and 35 have been cancelled rendering this rejection moot. Applicants respectfully requests that this rejection be withdrawn.


**IV. Conclusion**

In view of the foregoing, Applicant respectfully requests withdrawal of the outstanding rejections and the issuance of a Notice of Allowance.

Should the Examiner have any questions, Applicant encourages the Examiner to contact the undersigned, who can be reached at (919) 483-1891.

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